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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,505	07/20/2001	Gilson Woo		4913

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EXAMINER

VENIAMINOV, NIKITA R

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 05/08/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/909,505

Applicant(s)

WOO, GILSON

Examiner

Nikita R Veniaminov

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: The phrase "region" in line 8 should read "regions". Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lopez et al. (US 5,720,046) in view of Woo (US 5,529,569). Lopez et al. ('046) teach a method of treating and alleviating afflictions, ailments and diseases holistically by application of magnetism to a plurality of treating regions of the trunk, hands, head and neck (see abstract, Figures 3-5, 12, 14, 16a-16c and 19a), the method comprising designating a total treating region; providing magnet means having at least one north pole surface adapted for application to the plurality of treating regions of the trunk (see Figure 12 and column 8, lines 8-19), hand (see column 6, lines 5-60), head (see Figure 16a-16C and column 9, lines 32-56) and neck (see Figure 19a and column 10, lines 21-32); contacting the magnets directly to the treating regions of the trunk by using a proper band, wrapper or cover with magnets sewn-in or encased in any shape of form appropriate to fit the treating regions of the trunk of a person (see abstract and

column 8, lines 7-18), but they do not teach a method of treating and alleviating afflictions, ailments and diseases holistically by application of magnetism to a plurality of treating regions of the trunk of a person being treating comprising applying a north pole surface of a magnet to at least one of a plurality of treating regions of the trunk, the magnet having a size of $\frac{1}{8}$ " x $\frac{1}{8}$ " to 4"x18" to 13"x43"; maintaining the magnet in contact with at least one of the treating regions of the trunk for a period of 15 to 180 minutes to heal and relieve afflictions, wherein the total flux of the magnetic means applied to the at least one of the treating regions of the trunk being in the range from about 30Φ – $250,000\Phi$; repeating the application of the magnet for at least one additional period of time; repeating the time period for treatment at least once in a 24 hour period in an interval of about 2-10 hours in accordance with treatment process; applying the magnet to treating regions of the trunk of a person concurrently, wherein a total flux of the magnet applied to the treating regions of the trunk is substantially equal. However, Woo ('569) teaches a method of treating and alleviating pains and inflammation of human afflictions by application of a north pole surface of a magnet to at least one hand of the body of a person being treated comprising steps of maintaining the magnet in contact with said at least one hand for a period of from 30 minutes to about 2 hours to heal and relieve pain, the total flux of the magnetic means applied to at least one hand being in the range from about 5000Φ – $250,000\Phi$; wherein the total flux of the magnet means applied to each hand is substantially equal. It would have been obvious to one of ordinary skill in the art at the time of

the invention to modify the method of treating and alleviating afflictions, ailments and diseases holistically by application of magnetism to a plurality of treating regions of the trunk, hands, head and neck of Lopez et al. ('046) by the method of treating and alleviating pains and inflammation of human afflictions of Woo ('569), since Lopez et al. ('046) teaches the method of treating the human trunk regions using articles of clothing with permanent magnets and Woo ('569) teaches the flux of the magnets required to perform such treatments. Further, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the magnets of Lopez et al. ('046) to use magnets having a size of $\frac{1}{8}$ " x $\frac{1}{8}$ " to 4"x18" to 13"x43", since it has generally been held to be within the skill level of the art to perform routine experimentation for implementing the magnets as claimed.

Response to Arguments

4. Applicant's arguments filed on March 17, 2003 have been fully considered but they are not persuasive. Applicant states that Lopez et al. ('046) utilizes the "Shiatsu" acupressure points and meridian that are being structured differently from the standard one for a purpose of massage practice and do not provide any means of healing or cure; uses the "Shiatsu" acupressure points of the body parts for effecting therapeutic magnetic exposure by wearing magnetic clothing of "T-shirt, brief, pant and glove", etc., which are not based on the balance concept and the standard meridian system. However, Examiner states that Lopez et al.

('046) teach a merchandise in the form of torso-worn garments provided with a magnetic structure for affecting therapeutic magnetic exposure when worn by a human user (see column 2, lines 32-37), incorporated magnetic structure corresponds to at least three designated regions of a trunk (shiatsu meridian lines), and evenly contacting with at least one of the treating regions of the trunk, spaced apart at an equal distance, in horizontal order all the way around the region (see Figures 12-15). Shiatsu pertains to the massage therapy applied with the fingers to those specific areas of the body used in acupuncture, also termed acupressure. Magnetic healing/therapy is another related practice that has utilized the same specific points on the body known to acupuncture and acupressure practitioners (see column 1, lines 16-25), and thus Examiner assumes that those points are equivalent to the meridian areas (system) Applicant provides in the claims. With regard to the "balance concept" of the Lopez et al. ('046) teaching, the magnetic exposure is believed to assist stressed cells in restoring their correct balance of electrical charge for performing more efficient healing/therapy (see column 1, lines 44-50). Further, Applicant argues that treating regions of Lopez et al. ('046) are not specifically designated, using the body parts of humanwear as treating regions, which do not produce total healing effect of pain relied for whole body concurrently in 15 minutes to 3 hours; contact magnets to the clothing of T-shirts, brief, pants, gloves, etc., is used for effecting therapeutical magnetic exposure against acupressure points, but no specific effectiveness claimed or disclosed. Examiner states that Lopez et al.

('046) teach therapeutic exposure of the plurality of magnets on selected acupressure (body) regions, and the result of such therapeutic exposure is healing, alleviating afflictions, ailments and diseases. Plurality of magnet means are adapted for application to the plurality of treating regions of the body according to the meridian system (acupressure points) as shown on Figures 1, 2 and 12-15. Further, Applicant argues about "the concept of the energy balance of the human body", but this concept is not in the claimed subject matter. In response to applicant's argument that the contention made by Examiner on "modifying the method of treating of Lopez et al. ('046) by the method of Woo ('569)", and "modifying the magnets of Lopez et al ('046) to use magnets having a size of $\frac{1}{8}$ " x $\frac{1}{8}$ " to 4"x18" to 13"x43" is to be incorrect and inappropriate, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Applicant's arguing about changes in size and magnets power and flux are moot, since it has generally been held to be within the skill level of the art to perform routine experimentation for implementing the magnets as claimed. Also, Applicant indicated that the use of total flux for the holistic magnetic therapy was disclosed by Woo ('569) in 1987 and by Woo ('429) in 1997, which is 11 years earlier the time of Lopez et al. ('046) of 1998.

Art Unit: 3736

However, Applicant's claimed priority date is June 25, 1996 and the Lopez et al.

Application filing date is June 29, 1995.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

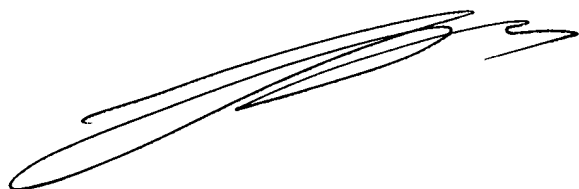
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 3736

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nikita R Veniaminov whose telephone number is (703) 605-0210. The examiner can normally be reached on Monday-Friday 8 A.M.-5 P.M..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric F Winakur can be reached on (703) 308-3940. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-0758 for regular communications and (703) 308-0758 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



May 05, 2003.

Nikita R Veniaminov
Examiner
Art Unit 3736



ERIC F. WINAKUR
PRIMARY EXAMINER